

DOCUMENT RESUME

ED 237 202

PS 013 944

TITLE Grandparents Rights. Report Together with Additional Views [To Accompany H. Con. Res. 45 which on Feb. 7, 1983, Was Referred Jointly to the Committees on the Judiciary and Education and Labor] from the Committee on Education and Labor. House of Representatives, 98th Congress, 1st Session, Rept. 98-61, Part 1.

INSTITUTION Congress of the U.S., Washington, D.C. House Committee on Education and Labor.

PUB DATE 14 Apr 83

NOTE 7p.

PUB TYPE Legal/Legislative/Regulatory Materials (090)

EDRS PRICE MF01/PC01 Plus Postage.

DESCRIPTORS Childrens Rights; *Civil Rights; *Family Relationship; *Federal Legislation; *Grandparents

IDENTIFIERS *Proposed Legislation; *Visitation Rights

ABSTRACT

This very brief legislative report summarizes the House of Representatives Concurrent Resolution 45, a resolution calling for the development of a model Uniform Grandparents Visitation Act (UGVA). The UGVA would grant grandparents adequate rights to petition state courts for visitation privileges with their grandchildren following marriage dissolution of such grandchildren's parents. The legislative background of and justification for the resolution are stated, and its costs and inflationary impact are estimated. Additional views included in the report emphasize that the resolution does not mandate or require the development of such a model act and point out that realizing the aims of the resolution may take considerable time. (RH)

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APRIL 14, 1983.—Ordered to be printed

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Mr. PERKINS, from the Committee on Education and Labor,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H. Con. Res. 45 which on Feb. 7, 1983, was referred jointly to the Committees on the Judiciary and Education and Labor]

[Including cost estimate of the Congressional Budget Office]

The Committee on Education and Labor, to whom was referred the concurrent resolution (H. Con. Res. 45) expressing the sense of the House of Representatives that uniform State act should be developed and adopted which provides grandparents with adequate rights to petition State courts for privileges to visit their grandchildren following the dissolution (because of divorce, separation, or death) of the marriage of such grandchildren's parents, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the concurrent resolution do pass.

SUMMARY OF RESOLUTION

House Concurrent Resolution 45 expresses the sense of the House of Representatives that the National Conference of Commissioners on Uniform State Laws should develop a Model Uniform Act, "Uniform Grandparents Visitation Act", that would grant grandparents adequate rights to petition the State courts for visitation privileges with their grandchildren following marriage dissolution of such grandchildren's parents. The resolution also requests that the National Center for Child Abuse and Neglect (NCCAN) provide technical assistance to the Conference Commissioners in developing guidelines to be used to determine the "Best Interest of the Child" standard.

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LEGISLATIVE CONSIDERATION

House Concurrent Resolution 45 was introduced on February 7, 1983, by Mr. Biaggi (for himself), Mr. Murphy, and co-sponsors. The resolution was jointly referred to the Committee on Education and Labor and Judiciary. On March 9th, the Subcommittee on Select Education of the House Committee on Education and Labor unanimously passed the resolution by a voice vote. On March 24, 1983, the Committee on Education and Labor ordered it reported unanimously, by a voice vote.

JUSTIFICATION FOR THE LEGISLATION

Forty-two States currently statutorily authorize grandparents grandparental visitation under certain circumstances. The scope of these statutes varies. Most refer specifically to grandparents and become operative when the grandchild's parents are separated or divorced. A few apply only when a parent is deceased. A few specifically include great-grandparents, while others apply to "any relative", or the broadest language, "any person." One State specifically authorizes grandparental visitation with a child who has been placed in a foster home. A small number of States now provide statutorily that step-parent adoption does not automatically terminate grandparental visitation rights.

These State statutes lack uniformity and thus do not grant equal protection to all grandparents in similar circumstances. State laws as currently written are deficient in three important respects. First, the circumstances that trigger the right to petition a court for visitation privileges vary widely from State to State. Second, while forty-two States use the "child's best interest" standard in awarding visitation, this standard is vague and too often fails to consider the vital relationship between grandparents and grandchildren. Third, the lack of a uniform approach among the States presents obstacles for interstate enforcement.

In conclusion, the Committee agrees that the development and adoption of a "Uniform Grandparents Visitation Act" must be based on the presumption of the "best interests of the child" thus, this presumption must continue to be paramount in making visitation determinations. However, the resolution acknowledges that the child's "best interest" are often served by maintaining relations with grandparents. Given the fact that forty-two states do have laws granting grandparents the right to petition, the adoption of a uniform approach could only facilitate interstate recognition and promote the equal protection clause of the laws as envisioned in the Constitution.

OVERSIGHT

No findings or recommendations concerning oversight of the provisions of this resolution have been received by the Committee from the Committee on Government Operations.

COST ESTIMATE

In compliance with clause 2(1) (3) (C) of the Rules of the House of Representatives, the estimate and comparison prepared by the Director of the Congressional Budget Office pursuant to section 403 of the

Congressional Budget Act of 1974, as timely submitted prior to the filing of this Report, is set forth below, and the Committee concurs in this estimate:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., April 11, 1983.

HON. CARL D. PERKINS,
*Chairman, Committee on Education and Labor,
U.S. House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has examined the federal cost impact of H. Con. Res. 45 as ordered reported from the House Education and Labor Committee. This resolution suggests that uniform state laws be adopted to provide grandparents adequate rights to visit their grandchildren following the dissolution of the marriage of the grandchildren's parents. Based on our analysis, there would be no increase in federal costs as a result of passage of this bill.

The purpose of H. Con. Res. 45 is to recommend that a uniform state act be adopted by all states. The resolution does not mandate that any specific actions be taken by the states and thus has no direct state and local cost impact. If the states were to adopt such an act, state and local budgets could be affected when the procedures for the interstate recognition and enforcement of state court orders granting visitation privileges for grandparents are implemented.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,
Director.

INFLATIONARY IMPACT

Since the resolution does not involve any additional costs, the Committee concludes that it has no inflationary impact.

SECTION-BY-SECTION ANALYSIS

The first section of the resolution expresses the sense of the House of Representatives that (1) the National Conference of Commissioners on Uniform State Laws should develop a Model State Act which (a) grants grandparents adequate rights to petition state courts for visitation privileges with their grandchildren following marriage dissolution of such grandchildren's parents (the language encompasses stepparent adoption); and (b) establishes procedures for the interstate recognition and enforcement of state court orders granting such visitation privileges; and (2) states should adopt the model act which is so developed. In the second section, the Secretary of Health and Human Services (HHS), through the National Center for Child Abuse and Neglect (NCCAN), is requested to provide technical assistance in developing, publishing and disseminating guidelines which may be used in determining the "best interest of the child" in each

case, which guidelines are to take into account the ability of the grandparents to help satisfy a child's need for continuity of care following the marriage dissolution of the child's parents.

CHANGES IN EXISTING LAW

II. Con. Res. 45 makes no changes in present Federal law; it adds, deletes or amends no United States Code provisions.

ADDITIONAL VIEWS OF HON. JOHN N. ERLNBORN

I would like to reiterate and expand upon several concerns regarding House Concurrent Resolution 45 which I expressed during full Committee consideration and mark-up of this measure.

As I stated at that time, I can emphasize with loving grandparents who have experienced the pain and heartbreak of being denied an opportunity to enjoy the company of their grandchildren following the dissolution of the marriage of such grandchildren's parents due to divorce, separation, or death. Similarly, the denial of visitation rights to grandparents is no less difficult in cases in which, after such dissolution of a marriage, parents remarry and stepparents adopt grandchildren.

On the other hand, viewed on a case by case basis, there are undoubtedly instances in which the custodial parents have compelling arguments in support of their desire to limit such grandparental visitation rights.

Clearly, the rights of the children involved must be fully protected and what is in their best interests should remain paramount.

The reservation which I have regarding House Concurrent Resolution 45 is this: I am deeply concerned that there may be false expectations raised as to the effect that Congressional approval of this measure may have on the dilemma it seeks to address. Our constituents need to know that Congressional approval of House Resolution 45 will not guarantee certain and immediate relief to grandparents who have been denied the visitation rights they seek.

H. Con. Res. 45 does not establish any Federal statutory rights or protections. If approved, House Concurrent Resolution 45 merely expresses the sense or belief of a majority in this Congress that the National Conference of Commissioners on Uniform State Laws should—not will—but should—develop a model State act. Such a model State act, in turn, should address the following issues: (1) provide grandparents with adequate rights to petition State courts for, and to be fully heard in such courts with respect to the granting of, privileges to visit such grandparents' grandchildren after the dissolution (because of divorce, separation, or death) of the marriage of such grandchildren's parents; (2) ensure that such rights extend to cases in which, after such dissolution, such parents remarry and stepparents adopt such grandchildren and (3) establish procedures for the interstate recognition and enforcement of State court orders granting such visitation privileges. This resolution goes on to express the sense of the Congress that the States should adopt whatever model State act may be developed. In addition, H. Con. Res. 45 provides that it is the sense of the Congress that the Secretary of Health and Human Services should provide technical assistance to the States in developing and disseminating guidelines which may be used in determining the "best interest of the child" in cases in which the grandparents of such

child seek privileges to visit the child after the dissolution of their children's marriage under certain conditions.

This resolution does not mandate or require that the National Conference of Commissioners on Uniform State Laws undertake the development of such a model State act. Should the Conference choose to act, we do not know when a model State act may be ready for consideration by the States.

Again, there is no assurance that the respective States will, in fact, consider or enact any model State act which may be developed and presented for their consideration. Nor do we have any reasonable basis for predicting the outcome or timetable for such State deliberations.

Similarly, whether or not the Secretary of Health and Human Services does provide technical assistance to the States in developing and disseminating "best interest of the child" guidelines is left to his or her discretion.

Surely the problems which House Concurrent Resolution 45 attempts to address are real ones. But we must not lose sight of the fact that positive and tangible results may be a long time in forthcoming.

JOHN N. EPLENBORN.

